

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

RHIANNON MONTOYA,

Plaintiff,

vs.

Cause No. 1:16-CV-00253 JCH/GBW

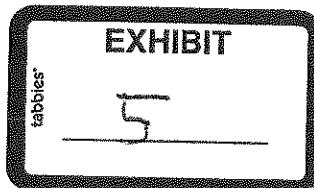
BOARD OF COUNTY COMMISSIONERS FOR
RIO ARRIBA COUNTY, RIO ARRIBA COUNTY
and LARRY DeYAPP, JOSE LUIS GALLEGOS
and ORLANDO ULIBARRI, in their individual
and official capacity,

Defendants.

DECLARATION OF LAWRENCE DeYAPP

Lawrence DeYapp, of full age, declares the following:

1. I am the Administrator of the Rio Arriba County Adult Detention Center and have served in that capacity since July 2009
2. On January 5, 2015, I received the “Grivance” [sic] attached hereto as sub-exhibit A by certified mail, return receipt requested from Rhiannon Montoya. The grievance detailed alleged groping by Detention Center Officer Orlando Ulibarri over a year earlier when Ms. Montoya was housed as an inmate at the Rio Arriba County Adult Detention Center. The month of “Feb” was crossed out and the month of “March,” 2013 was written in on the document when I received it. The handwritten receipt date of January 5, 2015 was written on the grievance by me upon receipt, together with my signature.
3. Upon receipt of the grievance, I confirmed that Ms. Montoya had not grieved the events specified therein by sending a grievance to the shift supervisor(s) that were working at the Detention Center in 2013 or 2014 when she was housed as an inmate at the Detention Center.



4. In March of 2015, I became aware that Ms. Montoya had filed a lawsuit against Rio Arriba County and the Detention Center when I received a copy of the suit. A true and accurate copy of the suit that I received is attached as sub-exhibit B.

5. Attached to the suit was a typewritten "Formal Grievance" that was undated in which Ms. Montoya was alleging that she was "forced to perform a sexual act on correction officer Ulibarri." According to the typewritten grievance, Ms. Montoya was alleging the sexual act occurred in April of 2013.

6. After investigation, it was determined that this typewritten grievance was never served on any shift supervisor at any time. In fact, no one at the Detention Center had received it prior to the suit.

7. Also attached to Ms. Montoya's suit was a "Second Notice of Claim." This was the first time that I received this document and after investigation, it was determined that no one else at the Detention Center had received this document.

8. Neither I nor anyone else at the Rio Arriba County Adult Detention Center had ever received a "First Notice of Claim," either. I was made aware of rumors in August of 2013 of an improper relationship between Detention Center Officer Ulibarri and Ms. Montoya. Those rumors were investigated by the New Mexico State Police. The investigation did not reveal any forced sexual act by Officer Ulibarri on Ms. Montoya. What it did reveal was that Officer Ulibarri brought contraband into the Detention Center for Ms. Montoya and that Ms. Montoya, unsolicited, kissed Officer Ulibarri on one occasion. Based on those facts, I terminated Officer Ulibarri's employment on August 9, 2013. However, Ms. Montoya did not make any complaints about Officer Ulibarri to me or to anyone else that I am aware of until she revealed same in her October 14, 2014 handwritten "Grievance," which I received on January 5, 2015.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18 day of July, 2016 at Tierra Amarilla, New Mexico



Lawrence DeYapp

Grievance

10/14/14

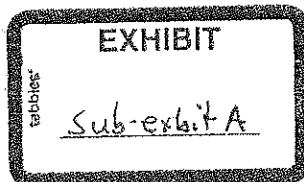
To whom it may concern:

I Rhiannon Montoya would like to report inappropriate conduct done to me by Correctional Officer Orlando Ulibarri during my time of incarceration at Rio Arriba County Jail. On or about the month of March, 2013, Correction Officer Orlando Ulibarri misused his position of authority in order to perform sexual acts on me. I was working in the laundry room doing laundry while I was approached by Correction Officer Orlando Ulibarri who then started making sexual advances at me, which involved touching and grabbing at me and my body including my breast area as well as my vaginal area.

I then told him to stop and not to touch me he did leave after he was done. I requested to speak with someone about the issue but got no response to help me resolve it.

Received
Jan 5, 2015 certifed mail
through
Kelli Joff

Rhiannon Montoya



1st JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF Rio Arriba

ENDORSED
First Judicial District Court
MAR 9 2015

Santa Fe, Rio Arriba &
Los Alamos Counties
PO Box 2260
Santa Fe, NM 87501-2260

Rhiannon Montoya
Plaintiff,

CIVIL NO # D-117-CV-2015-
00078

v.
County of Rio Arriba
Defendant(s)
Rio Arriba County Detention Center

)
COMPLAINT
(TORT)

I. NATURE OF THE ACTION

1. This is a tort suit authorized by the New Mexico Tort Claims Act, Chapter 41 N.M.S.A., by a corrections department prisoner who seeks damages for the following:

(a) RAPE

EMOTIONAL DISTRESS

ASSAULT

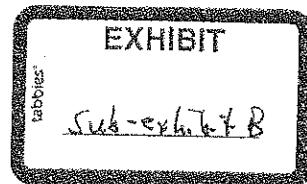
Threats to Personal Safety

II. JURISDICTION

2. District Court has jurisdiction in Tort actions pursuant to the New Mexico Tort Claims Act N.M.S.A. Chapter 41. a Notice of Claim was previously filed with the Risk Management Division pursuant to 41-4-16, N.M.S.A. (1978).

III. PARTIES

3. The plaintiff is Rhiannon Montoya, a prisoner at the New Mexico Womens Correctional Facility



4. Defendant(s) is(are) Orlando Ulibarri, and holds the office of Detention Officer, Rio Arriba County Detention Center

IV. FACTS

5. ① April 2013 - petitioner was forced to perform sexual act (vaginal intercourse) on Officer Ulibarri in laundry room.
- ② 16 march 2013 - petitioner was forced to perform oral sex on Officer Ulibarri, for fear of being sent to jail in Gallup where I physically beaten and sent to Rio Arriba County for my protection.
- ③ April 2013 - petitioner was forced by threat, to consent in vaginal intercourse and groping, I was told to provide "kisses for favors" or was threatened to be jumped and beat.
- ④ Officer Ulibarri would follow petitioner to laundry room where he constantly tried to kiss me, touch my hair and grope me.
- ⑤ Officer Ulibarri admitted to sexual misconduct during his interview with police on Aug 5 and Aug 8 2013.

V. PRAYER

WHEREFORE it is demanded the Court issue judgment against the defendant(s) as follows:

1. All mental health costs covered for severe Post Traumatic Stress caused by multiple sexual assaults and threats to my personal safety.
2. \$1,500,000 in victim's assistance for severe mental, physical, and emotional trauma caused by Officer Ulíbarri's multiple rapes, and assaults and threats to personal safety from County of Rio Arriba
3. \$1,500,000 in victim's assistance for severe mental, physical, and emotional distress caused by officer Ulíbarri's multiple rapes and assaults and threats to my personal safety from Rio Arriba County Detention Center

2/16/15
Date

Respectfully Submitted,

Rhiannon Montoya
Signature
Rhiannon Montoya

[THIS NEXT SECTION MUST BE COMPLETED BEFORE A NOTARY PUBLIC]

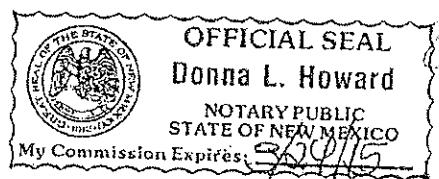
I, the Affiant, first being duly sworn have read the foregoing pleading and declare that the information contained therein is true and correct to the best of my knowledge.

Is/ Rhiannon Montoya

STATE OF NEW MEXICO

COUNTY OF Cibola

SUBSCRIBED AND SWORN to before me this 25th day of February, 2015.



Donna L. Howard
NOTARY PUBLIC

My Commission Expires: 3/04/15

Formal Grievance

To Whom It May Concern:

I Rhiannon Montoya was incarcerated at Rio Arriba County Detention would like to report inappropriate conduct by correction officer Orlando Ulibarri in the month of April 2013 I was forced to perform sexual act on correction officer Ulibarri. This took place in the laundry room while I was doing laundry for the female pod. I have been emotional and physically traumatized. I have nightmares; sever panic attacks and loss of sleep. I have submitted several grievances to administration in hopes to resolve this matter. I then requested to speak with someone about the issue and was told not to pursue the issue or I would be sent so far away I would not see my family.

Respectfully Submitted,

Rhiannon Montoya

TO: Rio Arriba County Manager
1122 Industrial Park Rd.
Espanola, NM 87532

DATE: 2/25/15
(Print date form being sent)

Second
NOTICE OF CLAIM

(This form must be filed before you file a tort complaint.)

Pursuant §41-4-16, N.M.S.A. (1978), you are advised that:

I, Rhiannon Montoya,
(Print your name) hereby give notice that I sustained a
loss/injury for which I may be entitled to recover, pursuant to the New Mexico Tort Claims Act.

The loss/injury occurred on or about 110 March 2013
(Print date of loss/injury)
at the Rio Arriba County Detention Facility under the following
(Print name of Facility) circumstances: (Please state facts briefly and clearly.) I was repeatedly
Raped, threatened and victimized by
Officer Orlando Ulibarri while detained.
at the Rio Arriba County Detention Center.
I was forced to engage in vaginal
intercourse as well as oral sex
and touching of my breasts, hips,
thighs, hair, buttocks and vagina.
I am seeking damages for the severe
physical, mental and emotional abuse
I suffered.

R. Montoya
Name of Plaintiff (Your name)
Rhiannon Montoya